

## HOUSE BILL NO. 482

INTRODUCED BY FORRESTER, GLASER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PROVISION IN A CONSTRUCTION  
5 CONTRACT THAT REQUIRES ONE PARTY TO THE CONTRACT TO INDEMNIFY ANOTHER PARTY TO THE  
6 CONTRACT, OR THE OTHER PARTY'S OFFICERS, EMPLOYEES, OR AGENTS, FOR THE OTHER PARTY'S  
7 LIABILITY, LOSSES, DAMAGES, OR COSTS IS VOID AS AGAINST THE PUBLIC POLICY OF THIS STATE;  
8 AUTHORIZING A CONSTRUCTION CONTRACT TO CONTAIN A PROVISION REQUIRING A PARTY TO A  
9 CONTRACT TO PURCHASE A PROJECT-SPECIFIC INSURANCE POLICY; AND PROVIDING AN EFFECTIVE  
10 DATE AND AN APPLICABILITY DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. **Section 1. Construction contract indemnification provisions.** (1) Except as  
15 provided in subsections (2) and (3), a construction contract provision that requires one party to the contract to  
16 indemnify, hold harmless, insure, or defend the other party to the contract, or the other party's officers,  
17 employees, or agents, for liability, damages, losses, or costs that are ~~not~~ caused by the negligence,  
18 recklessness, or intentional misconduct of the OTHER party or the OTHER party's officers, employees, or agents  
19 is void as against the public policy of this state.

20 (2) A construction contract may contain a provision:

21 (a) requiring one party to the contract to indemnify, hold harmless, or insure the other party to the  
22 contract, or the other party's officers, employees, or agents, for liability, damages, losses, or costs, including but  
23 not limited to reasonable attorney fees, only to the extent that the liability, damages, losses, or costs are caused  
24 by the negligence, recklessness, or intentional misconduct of A THIRD PARTY OR OF the INDEMNIFYING party or the  
25 INDEMNIFYING party's officers, employees, or agents; or

26 (b) requiring a party to the contract to purchase a project-specific insurance policy, including but not  
27 limited to an owner's and contractor's protective insurance, a project management protective liability insurance,  
28 or a builder's risk insurance.

29 (3) This section does not apply to indemnity of a surety by a principal on a construction contract bond  
30 or to an insurer's obligation to its insureds.

